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APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NOS. A-6941-03T1
A-0222-04T1

GALLENTHIN REALTY DEVELOPMENT, INC., a New Jersey Corporation and/or GEORGE A. GALLENTHIN, III and CINDY GALLENTHIN, husband/wife, both jointly and severally,

Plaintiffs-Appellants,

v.

THE BOROUGH OF PAULSBORO, PLANNING BOARD OF THE BOROUGH OF PAULSBORO, and THE PAULSBORO REDEVELOPMENT AGENCY,

Defendants-Respondents.

Argued: May 22, 2006 - Decided: July 14, 2006

Before Judges Fall, C.S. Fisher and Newman.

On appeal from the Superior Court of New Jersey, Law Division, Gloucester County, Docket Number GLO-L-968-03.

Peter H. Wegener argued the cause for appellant Gallenthin Realty Development, Inc. in A-6941-03T1 (Bathgate, Wegener and Wolf, attorneys; William A. Thompson, III, on the brief).

George A. Gallenthin, III, appellant pro se, argued the cause for himself and pro se

appellant Cynthia L. Gallenthin in A-0222-04T1.

M. James Maley, Jr. argued the cause for respondents (Maley & Associates, attorneys; Mr. Maley and Elizabeth L. Bancroft, on the brief).

PER CURIAM

In these back-to-back appeals, consolidated for opinion purposes, plaintiffs Gallenthin Realty Development, Inc., George A. Gallenthin, III, and Cynthia L. Gallenthin appeal from a final judgment entered in the Law Division, dismissing their complaint against defendants Borough of Paulsboro, the Planning Board of the Borough of Paulsboro, and the Paulsboro Redevelopment Agency, challenging the designation, by ordinance, of their property as an area in need of redevelopment pursuant to the Local Redevelopment and Housing Law (LRHL), N.J.S.A. 40A:12A-1 to -49. The following factual and procedural history is relevant to our consideration of the arguments presented on appeal.

The Borough of Paulsboro is located in the County of Gloucester and is approximately two square miles in area, bounded by the Delaware River on the west, West Deptford Township across Mantua Creek on the east, and by Greenwich Township and East Greenwich Township to the south. The Borough is bisected by a railroad freight line, and is divided into two

neighborhoods: Paulsboro, south of the railroad, containing most of the older residential development; and Billingsport, extending from the Delaware River to the railroad, containing housing and industrial development.

The subject property owned by plaintiffs is a vacant, sixty-three acre parcel in the Billingsport section of the Borough, adjacent to the Delaware River and across the river from Philadelphia International Airport. It is designated as Lot 3 in Block 1 on the Paulsboro Tax Map. Plaintiffs' property is covered with trees and areas of Phragmites australis.[1] The east side of the property abuts Mantua Creek.

On July 28, 1998, plaintiffs listed the subject property for sale with Worthington Agency at $2.5 million, as an instrument of private capitalization in the operation of a dredge deposit site. The property was permitted to accept United States Army Corp of Engineer's dredged material by Congressional House documents, 55th Congress, 2nd Session, H.D. No. 123, Survey of Mantua Creek, New Jersey; 73rd Congress, 1st Session, H.D. No. 14, Mantua Creek, New Jersey; 75th Congress,

[1] The record indicates that Phragmites australis, also referred to a "Fragmites australis," is a common reed that wildly grows in wet or muddy grounds along waterways, is difficult to eradicate, and is sometimes farmed as feed for domesticated animals such as cows. See http://herbarium.usu.edu/treatments/Phragmites.htm.

3rd Session, H.D. No. 505, Mantua Creek, New Jersey; with episodes of dredging in 1902, 1934, 1937 and 1963. The record discloses no such authorized use subsequent to 1963.

On February 1, 1997, plaintiffs leased ground access, storage trailer placement, employee vehicle parking, and 142 feet of floating docks to Clean Ventures in Mantua Creek. The lease was renewed for 1998, however there have been no subsequent renewals. On or about August 1998, plaintiffs requested rezoning of the property from manufacturing ("M") to Marina Industrial Business Park ("MIBP"), which would allow a variety of mixed non-residential, commercial and light industrial uses. On December 22, 1998, the Paulsboro Planning Board rezoned the property from M to MIBP.

On December 22, 1998, the Paulsboro Planning Board adopted a new Master Plan, in which six areas were recommended as being in need of redevelopment or rehabilitation for economic redevelopment, as recommended by the Planning Board Engineers, Remington & Vernick. The affected areas did not include plaintiffs' land or any contiguous parcels.

Following the adoption of the Master Plan, the Paulsboro governing body retained Remington & Vernick to undertake a study and make recommendations regarding potential redevelopment of areas designated in the Master Plan. On July 2, 1999, Remington

& Vernick issued its report to the governing body. On September 21, 1999, pursuant to N.J.S.A. 40A:12A-6a, the Paulsboro governing body adopted Resolution No. 169.99, authorizing the planning board to undertake a preliminary investigation to determine whether the parcels listed therein were areas in need of redevelopment. Plaintiffs' property was not listed in that resolution.

The planning board met on April 25, 2000, and determined that additional areas should be included in the board's authorized redevelopment investigation. By letter to counsel for the governing body, the planning board attorney requested that the governing body consider amending Resolution No. 169.99 to include "what are commonly known as the BP, Essex and Dow properties which are roughly bordered by the river, the creek, Mantua Avenue and Industrial Road." The listing of properties accompanying that letter included several lots within Block 1, but did not include plaintiffs' property.

On May 2, 2000, as requested by the board, the Paulsboro governing body adopted Resolution No. 98.00, in which it authorized the planning board to undertake a preliminary investigation of these additional properties to determine whether they were areas in need of redevelopment. As a result of a further request by the board, the governing body adopted

Resolution No. 110.00 on June 7, 2000, authorizing the planning board to preliminarily investigate four additional parcels; plaintiffs' property was not among them.

Based on the authorizations contained in these three resolutions, Remington & Vernick issued a report of the Board's preliminary investigation dated June 2000. The report described the study area, which consisted of approximately 184 acres in the MIBP Zone, as encompassing

> lands upon which are located a now closed liquid storage facility for petroleum products and an unimproved three (3) acre parcel, all of which being owned by BP Oil Company; contiguous unimproved parcels utilized for miscellaneous storage, owned by Norman B. Swindell; and a now closed chemical plant, owned by Dow Chemical Company.

The report concluded "that the delineated study area meets the statutory criteria [in N.J.S.A. 40A:12A-5] for designation as an area in need of redevelopment." A map of the proposed area in need of redevelopment was attached to this report.

Pursuant to N.J.S.A. 40A:12A-6b, the planning board provided for public notice and a public hearing for consideration as to whether the designated area was in need of redevelopment in accordance with the criteria set forth in N.J.S.A. 40A:12A-5. The planning board conducted a public

hearing on July 11, 2000. On that date, the board adopted Resolution PB-09-2000, finding that the areas described in Resolution No. 98.00 and Resolution No. 110.00 of the governing body constituted

> an area in need of redevelopment for the reasons expressed in the report of Remington & Vernick Engineers Inc. entitled Preliminary Investigation For Determination Of Area In Need Of Redevelopment dated June, 2000 and attached hereto and for the reasons stated in the testimony of George R. Stevenson, Jr., P.P. at the hearing on July 11, 2000.

In this resolution, the planning board recommended that the entire delineated area be determined by the governing body to be a redevelopment area.

Pursuant to the authorization contained in Resolution No. 169.99, Remington & Vernick issued another report to the board, dated August 2000, pertaining to three lots located within Block 2, owned by BP Oil Company. Those properties are located along the Delaware River and abut plaintiffs' property to the north. The report stated that these three lots met the statutory criteria for designation as an area in need of redevelopment. On August 22, 2000, upon proper notice, the planning board conducted a public hearing and adopted Resolution PB-10-00, finding that these three lots met the criteria for an area in

need of redevelopment, based on the August 2000 Remington & Vernick report and based on testimony from Stevenson at the hearing. The board recommended that the governing body determine that these three lots be designated as an area in need of redevelopment. Up to that point, plaintiffs' property was not included in the Borough's redevelopment plan.

On February 6, 2001, the Paulsboro governing body enacted Ordinance No. 04-01, amending Chapter 59, "Redevelopment Agency," of the Borough Code of the Borough of Paulsboro, reconstituting the Paulsboro Redevelopment Agency as consisting of seven members, "the Mayor and Council of the Borough of Paulsboro," with the mayor to be the chairperson, and with each commissioner's tenure of office to coincide with his or her tenure as mayor or councilperson. The Redevelopment Agency was given all powers, duties and responsibilities as set forth in N.J.S.A. 40A:12A-8.[2]

On September 18, 2002, the governing body adopted Resolution No. 191.02, authorizing the mayor and borough clerk to execute a professional services contract with URS Corporation as a professional consultant in conducting a preliminary study

[2] During argument in the Law Division action on defendants' motion to dismiss, counsel for defendants represented to the court that the Borough of Paulsboro had enacted an ordinance in 2003 abolishing the Paulsboro Redevelopment Agency; a copy thereof is not contained in the record on appeal.

and scoping for the overpass and access road to the riverfront redevelopment site.

In a "Redevelopment Plan Summarization" dated October 2002, issued to the planning board and governing body by Remington & Vernick, it was noted that the URS study had cited "the possibility of ultimately including [within the redevelopment area] the 63 acre parcel[3] immediately to the south of the BP site and a 133 acre site owned by Citgo on the opposite side of the Mantua Creek." The Remington & Vernick report stated that "[i]n the event of such eventuality, a further preliminary investigation would be necessary as these parcels were not previously examined."

On December 3, 2002, pursuant to N.J.S.A. 40A:12A-7, the governing body enacted Ordinance No. 19.02, approving and adopting the Redevelopment Plan relating to those areas recommended by the planning board as areas in need of redevelopment, designated as the "BP/Dow Redevelopment Area."[4]

However, on December 17, 2002, pursuant to N.J.S.A. 40A:12A-6a, the governing body adopted Resolution No. 234.02, authorizing the planning board to conduct a preliminary

[3] This is the subject property owned by plaintiffs.

[4] As previously noted, this did not encompass plaintiffs' property.

investigation to determine whether several designated parcels, including plaintiffs' property, met the statutory criteria for designation as areas in need of redevelopment. The resolution also provided:

> 4. In the event the Planning Board concludes Block 1, Lot[s] 3 and 18, Block 2, Lots 1 and 9.02, Block 33, Lots 1, 6 and 7 and Block 135, Lot 7 north of Industrial Road satisfy the statutory criteria for designation as "an area in need of redevelopment" pursuant to N.J.S.A. 40A:12A-5, then the Planning Board shall be authorized to prepare and recommend a Redevelopment Plan for the area, in accordance with N.J.S.A. 40A:12A-7.

Pursuant to this authorization, Remington & Vernick issued a "Redevelopment Area Study and Plan" dated January 2003. The area studied was comprised of those properties contained in Resolution No. 234.02, including plaintiffs' property. This study noted that these properties may be "principally defined by expanses of lands in a natural state, bounding waterways being the Delaware River and Mantua Creek," with "proximity to improved and unimproved lands comprising the BP Oil Company facility, the expanse of the Paulsboro Packaging, Inc. facility, and proximity to a mature residential development."

The study noted that plaintiffs' property was located in the MIBP Zone, and "is a 63 acre expanse of vacant unimproved

land, other than for a rail line[,]" and that "[l]ands owned by BP Oil Company previously declared by the governing body to be an area in need of redevelopment, the Mantua Creek, and the parcel having thereon the Paulsboro Packaging, Inc. facility bound the track." In discussing the statutory criteria, the study stated, in pertinent part:

> Conditions rising to the level of the requisite criteria for a redevelopment declaration noted from field observation conducted in January 2003 include: a not fully productive condition of land as evidenced by the expanse of vacant unimproved parcels which otherwise could be beneficial in contributing to the public health, safety and welfare of the community resultant from aggregation of the positive features of development such as the introduction of new business, job creation, and enhanced tax base; and as further evidenced by the underutilization of the existing rail line (Criteria [N.J.S.A. 40A:12A-5e]).

The study recommended inclusion of these parcels, including plaintiffs' property, within the area in need of redevelopment as well as their inclusion in the Borough's redevelopment plan.

Upon notice pursuant to N.J.S.A. 40A:12A-6, the planning board scheduled a public hearing for March 3, 2003 "to determine a need for redevelopment and revitalization of Block 1, Lots 3 and 18; Block 2, Lots 1 and 9.01; Block 33, Lots 1, 6 and 7; and Block 135, Lot 7." Upon the request of plaintiff George A.

Gallenthin, III, the planning board postponed the March 3 hearing and rescheduled same to April 7, 2003.

The public hearing on the subject property was conducted by the planning board on April 7, 2003. George Stevenson, the board's professional planner, presented the matter to the planning board. Stevenson stated that he had conducted a site inspection and displayed photographs of plaintiffs' property, noting:

> Each of these pictures indicates trees, a lack of improvement of any type, indications of what they call phragmites, which is like cat-of-nine-tails that you generally see, that type of plan. But what I wanted to demonstrate with these photographs is that there are no physical improvements that I came upon when I was walking that site. All I could see were trees. I could see what appeared to be expanses of phragmites or the cat-of-nine-tails, no development on that site[.]

Stevenson concluded that the condition of plaintiffs' property, along with the other vacant parcels comprising the site, constituted "economic deterioration," explaining:

> That is, you have no improvement; you have vacant unimproved conditions. There's just no activity, and I would suggest to the board that if there would be improvement upon those parcels, particularly if there would be improvement in conjunction with the [redevelopment] plan that's been previously approved, the aggregate that would be

> beneficial to the municipality in that there would be commerce occurring, there would be job creation resulting from that commerce occurring and the bottom line it would certainly enhance the tax base for the municipality, and so I am able to state to the board that because we have vacant, unimproved conditions, because there's bits of land that could otherwise be more beneficial to use for the overall welfare of this municipality, that these lands are considered to be an area in need of redevelopment.

Stevenson stated that the condition of the subject property warranting that conclusion was set forth in N.J.S.A. 40A:12A-5e, which provides:

> e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare.

Plaintiffs Cynthia L. and George A. Gallenthin, III, appeared at the hearing and presented their concerns, contending that Mr. Maley was in conflict because he had previously represented Triad Associates, which was an economic development consultant for Paulsboro, and also had a contract for professional services with the Gloucester County Improvement Authority.

The Gallenthins also produced Paul Szymanski, a professional planner, who testified concerning the inclusion of plaintiffs' property as an area in need of redevelopment. Szymanski stated that the property does not meet the redevelopment criteria set forth in N.J.S.A. 40A:12A-5e because plaintiffs were in the process of undertaking development activity on the site. Szymanski testified that Stevenson had failed to consider the historical use of plaintiffs' property as a dredge disposal site and its present availability for such use. However, Szymanski admitted that the property had not been used as a dredge disposal site since 1963 and that there were no current permits for such use. Szymanski also noted that plaintiffs' property is presently being farmed in that Phragmites australis is being cultivated on the site.

Szymanski noted further that plaintiffs' property contained a spur line of the railroad, and a roadway that is an extension of Universal Road. However, he agreed that the rail line had not been utilized for several years. Szymanski stated that there have been floating docks on the property when it was used by Clean Ventures pursuant to an agreement with plaintiffs. He agreed, however, that that use had ceased several years earlier.

Based on these actual or potential activities on the site, Szymanski concluded that plaintiffs' property did not meet the redevelopment criteria of N.J.S.A. 40A:12A-5e.

Mr. Gallenthin also testified at the April 7 hearing. He provided a detailed history of the property, and outlined his plans for development of the property as a dredge deposit site. Mr. Gallenthin also explained that Phragmites australis is a plant that is farmed and then fed to cows, and that the property has been farmed for approximately the last seven years, although he admitted that little economic benefit had been derived from that farming activity.

Mr. Gallenthin testified that beginning in 1996, plaintiff Gallenthin Realty Development, Inc. had initiated a project known as "Gallenthin Meadowlands Sediment Disposal & Recycling Facility," for use of the property as a dredge disposal site. He explained that plaintiffs had taken significant steps in the development of this project and their property did not, therefore, meet the definition of an area in need of redevelopment. He admitted, however, that a DEP water permit would be needed for such activity, which he had not obtained, and could provide no evidence of any Army Corps of Engineers permit subsequent to 1963.

Mr. Gallenthin further contended that the Gloucester County Board of Chosen Freeholders and the Gloucester County Improvement Authority had entered into a joint venture with several riverfront municipalities in an effort to control and profit from real property along the Delaware River that was in private ownership through improper use of the LRHL.

At the conclusion of the hearing, the planning board voted unanimously to accept the testimony of Szymanski and approve the recommendation of Remington & Vernick that the subject property as an area in need of redevelopment. On May 5, 2003, the planning board adopted Resolution PB-10-2003, finding that plaintiffs' property, along with the other parcels under consideration, constituted an area in need of redevelopment "for the reasons expressed in the . . . report of Remington & Vernick Engineers, Inc. attached hereto and for the reasons stated in the testimony of George R. Stevenson, Jr., P.P., at the hearing on April 7, 2003." The board recommended that the governing body designate the area as one in need of redevelopment.

On May 6, 2003, the governing body adopted Resolution No. 96.03, approving the recommendation of the planning board, and designating

> the area Comprised of Lands East of Mantua Avenue and Situate to Riverview Avenue, wherein the area located as Block 1, Lots 3

> and 18; Block 2, Lots 1 and 9.02; Block 33, Lots 1, 6 and 7; and Block 135, Lot 7 on the Borough of Paulsboro Tax Map is a redevelopment area according to the criterion in N.J.S.A. 40A:12A-1, et seq. as recommended by the Planning Board.

The governing body also introduced on first reading Ordinance No. 0.05.03, adopting the redevelopment plan that incorporated, inter alia, plaintiffs' property. The ordinance was enacted on final reading on May 20, 2003, after a public hearing.

On June 18, 2003, plaintiffs filed a complaint in lieu of prerogative writs in the Law Division against defendants, seeking judgment voiding Ordinance No. 0.05.03. Among the allegations contained in the complaint are assertions that various municipal officials and professionals conspired to use the LRHL to deprive plaintiffs of their development rights to their property; that the 1998 Master Plan did not include plaintiffs' property as an area in need of rehabilitation; that there were various substantive and procedural flaws in the procedures leading to the designation of plaintiffs' property as one in need of redevelopment; that attorney Maley was in conflict of interest during his role in the redevelopment designation of plaintiffs' property; and that plaintiff's property did not meet any of the criteria set forth in N.J.S.A.

40A:12A-5 for its designation as an area in need of redevelopment.

Defendants filed a motion in the Law Division seeking dismissal of the complaint for failure to state a claim upon which relief could be granted. That motion was argued in the Law Division before Judge Stanger on September 26, 2003. The judge denied the motion to dismiss, finding the complaint, although "less than articulately drawn," contained sufficient allegations to survive.

On October 10, 2003, Judge Stanger denied the application of Mr. Gallenthin to be admitted in this matter, pro hac vice, as counsel for plaintiffs. On February 20, 2004, the judge denied the application for dismissal of the complaint against the Paulsboro Redevelopment Agency, concluding that the Agency was still in existence at the time of the redevelopment designation of plaintiffs' property.

At a pre-trial conference held on March 11, 2004, the trial court established a briefing schedule and set June 25, 2004 as the hearing date on plaintiffs' complaint. Trial briefs and proposed exhibits were filed by the parties in a timely manner. However, on June 21, 2004, plaintiffs submitted approximately 526 pages of new proposed exhibits. The trial judge denied, as

untimely, plaintiffs' application to permit submission of those exhibits.

A hearing on plaintiffs' complaint was conducted in the Law Division before Judge Stanger on June 25, 2004. After hearing arguments and considering the matter, the judge dismissed the complaint. After outlining the procedural history leading to the enactment of Ordinance No. 05.03, the judge stated, in pertinent part:

> With respect to the procedural aspects of this action I find them proper and I find that the defendants meticulously adhered to the requirements of the statute, gave full notices as required, and the procedure was appropriate.
>
> Getting to another issue, with respect to the allegations of conflicts, there have been numerous allegations of conflicts in this case, most of which have been abandoned by virtue of their not being either argued or mentioned in briefs. The one that was commented on today involving South Jersey Port Authority, I have read the submissions of Mr. Maley, Mr. Angelini and Mr. Remington. I find that no conflicts exist with respect to their actions to the extent that I am aware of them impacting upon the passage of this ordinance by the governing body of Paulsboro.
>
> I made it clear to Mr. Gallenthin at I think a hearing two or three times ago that if he felt that there were conflicts or conspiracies or there was improper action or collusion or criminal behavior that that would not be tried in this court in the

nature of an action in lieu of prerogative writs.

I would once again state to Mr. Gallenthin that if you believe that laws of the State of New Jersey have been broken, you're encouraged to report that action or those actions to either the Gloucester County Prosecutor or the Attorney General, but it is inappropriate for this court to consider those allegations when what I'm dealing with is a narrow interpretation. I'm focusing simply on the ordinance and whether or not it is proper or not.

The issues raised in plaintiffs' arguments, I asked [plaintiffs' counsel] if he was aware of any case law, because I couldn't find any, that would mandate a municipality to pick one subsection under [N.J.S.A.] 40A:12A-5 over another. The municipality chose subsection "e." They chose not to proceed under subsection "c." I understand if plaintiffs had their choice, their strongest case in opposition would have been to [an] application under subsection "c," but that simply is not what we're dealing with.

And the idea that private capital can be used to turn a profit is not a proper consideration for this court when evaluating the propriety of the actions of the municipality.

The case law and the statute do not require that properties [designated as an area in need of redevelopment] be contiguous. From reading the report and what I call -- refer to as the URS portion, I found out that there had been the prior designation of the -- what is there in red as the BP Dow property. As I indicated to Mr. Gallenthin when I looked at the maps that were there and weighed what I saw against the testimony of Mr. Gallenthin's

expert I, too, wondered about Paulsboro Packaging. I came to the conclusion that it would seem to be an isolated parcel if not included.

And there certainly is sufficient justification on that basis to include that Paulsboro Packaging property. To use Mr. Maley's words, I think he said it would be a hole. And that's in fact what it would be.

The essence of this case is whether under [N.J.S.A. 40A:12A-5e] the determination is supported by substantial evidence.

[Counsel for plaintiffs] called it -- characterized it as scant to non-existent and certainly not reaching the level of substantial. The review that the court undertakes has to be of the evidence that was before the planning board on April 7th.

* * * *

The plaintiffs' burden at this juncture is proving arbitrary and capricious action -- or capricious action by the planning board, and that's a heavy burden. In order for the redevelopment plan to meet the criteria of the statute there are a number of points specified in [N.J.S.A.] 40A:12A-7 that the plan has to meet. The planning board had before it Mr. Stevenson's plan which was entitled Redevelopment Area Study and Plan, comprised of lands east of Mantua Avenue and situate to Riverview Avenue. It's dated January 2003 from Remington & Vernick.

The plan on page 7 under title, "Overarching Perspective," included this sentence: "This plan incorporates by reference the strategic overview, primary goals and recommendations enunciated in the URS study," which was apparently from what I

read here, the URS Study II. . . . The October 2002 URS Phase II Study Highest and Best Use/Strategy For Implementation. And that was with respect to BP Oil and Dow.

The plan before the planning board had . . . incorporated the philosophies and purposes of that URS plan.

Going to the subsections of [N.J.S.A. 40A:12A-7], the redevelopment plan has to show its relationship to local objectives as to appropriate land uses, density, population, improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements.

I find that the plan did that. There are -- in addition to incorporation of the URS study, Mr. Stevenson's plan under any converting plan talked about, I'm quoting again from "Overarching Perspective," "a flexible plan for redevelopment sensitive to changing market conditions with an overarching goal of promoting sustainable development along the Delaware River resultant primarily in the dual thrust of advancing a mix of industrial/commercial uses and port terminal use."

The plan also referenced public transportation, talking about the rail line underutilization. Under the recommendations and URS study which was incorporated, talking about -- the installation of interior road work system, construction of bridge, the rail line, for the local objectives with respect to land use, once again, incorporated the URS study, talked about the primary goals in it, promotion of diverse economic development, job creation[,] and enhanced tax base, encourage public access with the riverfront. . . .

I find that the plan met [N.J.S.A. 40A:12A-7a(1)].

In [N.J.S.A. 40A:12A-7a(2), the plan] must indicate that the proposed land uses and the building requirements in the project area -- that was covered by a(1), but again they talk about the URS study. Port terminal uses, commercial, industrial, use of riverfront, etc.

It mentions the recreational use, obviously with the waterfront area and it talks about any building requirements in the future being related to final uses that are needed.

I find that the plan meets the criteria under [N.J.S.A. 40A:12A-7a(2)].

Subsection a(3) talks about relocation. We really don't have any relocation issues. Nobody's being relocated that I can see.

[N.J.S.A. 40A:12A-7a(4)]. Does it identify property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan? This was an issue raised by the court. It said it's authorized by law that land and/or buildings not owned by the Borough of Paulsboro necessary for the effective execution of the redevelopment plan may be acquired by condemnation. And while that is very broad and does not identify with any degree of specificity, it is probably sufficient to get by. Although if [I were] Mr. Gallenthin, I would -- in the event that an eminent domain action is filed, pay particular attention to that portion of the redevelopment statute.

Under [N.J.S.A. 40A:12A-7a(5)], significant relationships with the redevelopment plan to the master plan, that's all over. In fact, even Mr.

Szymanski acknowledged that the plan was in conformity with the master plan. I find that it didn't really have to deal with the West Deptford master plan and there is sufficient language in here to bring it in compliance with the State Planning Act and the New Jersey Development and Redevelopment Plan.

Under subsection [c] the plan has to describe its relationship to the pertinent municipal development regulations. It says that the planning board shall conduct site plan review pursuant to the provisions of the [Municipal Land Use Law].

What this court would have done and what this court thinks of the quality of the evidence is not a basis for a decision of . . . how the planning board evaluated what was before it. This court is called upon to determine whether or not in light of everything that the planning board had in front of it and heard, whether or not its actions in approving that resolution were arbitrary or capricious.

The planning board heard testimony from two experts, obviously. Anybody, any planning body who is charged with listening and evaluating and deciding, a planning board can decide to believe one expert and to disbelieve another. We see it all the time.

Obviously, the planning board chose to accept the testimony of Mr. Stevenson and not that of Mr. Szymanski or Mr. Gallenthin.

I can find no fault with that decision. I find that there was substantial evidence as required by the statute. The plaintiffs' complaint is therefore dismissed[.]

The trial court issued a final judgment on July 7, 2004, dismissing plaintiffs' complaint, and finding that the defendants had followed the proper procedures set forth in the LRHL leading to the enactment of Ordinance No. 0.05.03, and that the designation of plaintiffs' property as an area in need of redevelopment was based on substantial evidence.

Following the filing of these appeals, an issue developed concerning the accuracy of portions of the record on appeal. On February 28, 2005, we entered an order remanding the matter to the Law Division to settle the record. On May 10, 2005, Judge Stanger issued an order directing that a representative of the Civil Case Management Office listen to the tape of the June 25, 2004 proceedings, and to issue a written report concerning the accuracy of the transcript of that hearing. Leslie A. Yurchuck of that Office issued a detailed report in accordance with the May 10 order, certifying the transcripts of the September 26, 2003, October 10, 2003, February 20, 2004, March 11, 2004, and June 25, 2004 hearings, subject to the corrections and changes appearing in said report. On August 18, 2005, Judge Georgia M. Curio[5] entered an order that incorporated the findings and conclusions of that report as part of the record, and denied

[5] Judge Stanger had subsequently retired.

several applications by plaintiffs to expand or modify the record.

On appeal in A-6941-03T1, plaintiff Gallenthin Realty Development, Inc. presents the following arguments for our consideration:

> POINT I
> AN "AREA IN NEED OF REDEVELOPMENT" CANNOT CONSIST OF MULTIPLE, PHYSICALLY DIVERSE, NON-CONTIGUOUS SITES.
>
> POINT II
> THE SPECIFIC REFERENCE IN N.J.S.A. 40A:12A-5(c) TO "UNIMPROVED VACANT LAND" REQUIRES THIS SECTION TO BE APPLIED TO PLAINTIFF'S PROPERTY.
>
> POINT III
> PLAINTIFF'S PROPERTY DOES NOT MEET THE CRITERIA FOR DESIGNATION UNDER N.J.S.A. 40A:12A-5(e).
>
> POINT IV
> THE JANUARY 2003 REPORT OF REMINGTON & VERNICK WHICH FORMS THE BASIS OF THE PLANNING BOARD AND BOROUGH COUNCIL ACTION DOES NOT MEET THE STATUTORY REQUIREMENTS TO REACH A DETERMINATION OF "AREA IN NEED OF REDEVELOPMENT."
>
> POINT V
> THE PLANNING BOARD OF PAULSBORO DID NOT PROPERLY ADOPT THE RECOMMENDATION THAT THIS WAS AN AREA IN NEED OF REDEVELOPMENT.
>
> POINT VI
> THERE IS A SUBSTANTIAL CONFLICT OF INTEREST BETWEEN REPRESENTATIVES OF THE BOROUGH OF PAULSBORO AND THE INTENDED USER OF THE SITE SO AS TO CAUSE THE DECLARATION TO BE VOID.

POINT VII
THE TRIAL JUDGE SHOULD HAVE SCHEDULED A PLENARY HEARING IN THIS MATTER.

On appeal in A-0222-04T1, plaintiffs George A. Gallenthin, III, and Cynthia L. Gallenthin present the following issues:

QUESTION ONE
WHETHER THE DEFENDANTS LACKED JURISDICTION TO ADOPT ORDINANCE 0.05.03 TO DESIGNATE THE PLAINTIFFS' PROPERTY AS AN AREA IN NEED OF [RE]DEVELOPMENT PURSUANT TO N.J.S.A. 40A:12A-1?

QUESTION TWO
WHETHER THE LOWER COURT ERRED AND ABUSED ITS DISCRETION IN RULING THAT THE DEFENDANTS HAD FOLLOWED THE PROPER STATUTORY PROCEDURE IN ADOPTING ORDINANCE NO. 0.05.03?

QUESTION THREE
WHETHER THE LOWER COURT ERRED AND ABUSED ITS DISCRETION IN EXCLUDING RELEVANT EXHIBITS SUBMITTED BY THE PLAINTIFFS IN SUPPORT OF THEIR COMPLAINT IN SUPERIOR COURT - LAW DIVISION?

QUESTION FOUR
WHETHER THE TRANSCRIPT OF ORAL ARGUMENTS AT THE JUNE 25, 2004 HEARING LACKED SUBSTANTIAL ACCURACY AS A TRUE AND CORRECT COPY?

QUESTION FIVE
WHETHER THE JUDGE BELOW ERRED IN NOT RECUSING HIMSELF BASED ON A CONFLICT OF INTEREST?

I.

Plaintiffs present several arguments that contest application by defendants of the provisions of the LRHL to their property.

A. Redevelopment Authorization and Applicable Standards of Review.

N.J. Const. art. VIII, § 3, para. 1 authorizes the "clearance, re-planning, development or redevelopment of blighted areas[.]" Additionally, the power of a municipality to implement redevelopment within a defined district also derives from N.J. Const. art. IV, §6, para. 2, authorizing the adoption of zoning laws.

With these constitutional bases, "[T]he Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 to -49 ("Act"), was adopted to 'codify, simplify and concentrate' various state laws regarding local redevelopment and housing, in an effort to assist in promoting redevelopment and new housing in areas of the State in need of rehabilitation." Bryant v. Atlantic City, 309 N.J. Super. 596, 602-03 (App. Div. 1998) (quoting N.J.S.A. 40A:12A-2(d)). Under the LRHL, the phrase "area in need of redevelopment" was deemed to be the equivalent of a "blighted area" for constitutional purposes. N.J.S.A. 40A:12A-6c.

Here, we must determine whether the designation of plaintiffs' land as an area in need of redevelopment was

supported by substantial credible evidence. Concerned Citizens of Princeton, Inc. v. Mayor and Council, Borough of Princeton, 370 N.J. Super. 429, 452 (App. Div.), certif. denied, 182 N.J. 139 (2004). A redevelopment designation is vested with a presumption of validity and, therefore, courts are not to "'second guess' a municipal redevelopment action, 'which bears with it a presumption of regularity.'" Id. at 453 (quoting Forbes v. Board of Trs. of Township of S. Orange Vill., 312 N.J. Super. 519, 532 (App. Div.), certif. denied, 156 N.J. 411 (1998)). In reviewing an ordinance, an appellate court must affirm it unless the ordinance is shown to be arbitrary and capricious. Dock Watch Hollow Quarry Pit, Inc. v. Township. of Warren, 142 N.J. Super. 103 (App. Div. 1976), aff'd, 74 N.J. 312 (1977).

B. Jurisdiction to Enact Ordinance.

Plaintiffs argue that defendants lacked jurisdiction to adopt Ordinance No. 0.05.03. We disagree.

Pursuant to the LRHL, the governing body of a municipality has jurisdiction to determine whether areas within its borders are in need of redevelopment, even if the areas include the entire municipality. Bryant, supra, 309 N.J. Super. at 603.

Here, plaintiffs contend that because there is federal jurisdiction over admiralty and maritime law and railroads, that

their site is exempt from state and local regulation. Not so. There is no automatic exemption from state and local law based on isolated instances of dredging activity over the past century and the presence of a single railroad spur on plaintiffs' property. Municipal regulation of land use will co-exist with state and federal regulations where the two are compatible. Anfuso v. Seeley, 243 N.J. Super. 349, 363 (App. Div. 1990).

Here, there is no evidence to suggest that there is incompatibility between the municipality's authority under the LRHL and the exercise of federal or state authority over plaintiffs' property. Dredging activity has not occurred on that property since 1963, and there is no evidence that the status of a railroad spur on plaintiffs' property affects federal regulation of railroads, creating incompatibility. Indeed, one stated reason for the designation of this property as an area in need of redevelopment was the underutilization of the railroad spur.

C. Statutory Procedure.

Plaintiffs argue that defendants failed to follow the proper procedures set forth in the LRHL. We disagree.

Pursuant to the LRHL, a municipal governing body has the authority to determine whether an area is in need of redevelopment. N.J.S.A. 40A:12A-4. The process begins with a

preliminary investigation into whether the area is in need of development. N.J.S.A. 40A:12A-4a(1). The governing body must, by resolution, authorize the planning board to undertake such a preliminary investigation. N.J.S.A. 40A:12A-6a. The planning board must prepare a map of the area under consideration, and provide for public notice and conduct a public hearing to determine whether any of the conditions set forth in N.J.S.A. 40A:12A-5 of the delineated property are present. N.J.S.A. 40A:12A-6b. The eventual determination by the planning board shall be made by resolution whenever the board determines that any of the following conditions of the subject property exist:

> a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.
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> b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenantable.
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> c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography,

or nature of the soil, is not likely to be developed through the instrumentality of private capital.

d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare.

f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.

g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act" . . . the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment[.] . . .

> h. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.[6]
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> [N.J.S.A. 40A:12A-5 (emphasis added).]

Upon the completion of the public hearing, the planning board must submit a report to the governing body as to whether the area should or should not be determined to be an area in need of redevelopment. N.J.S.A. 40A:12A-6b(5). After receiving the recommendation of the planning board, the governing body may adopt a resolution determining that the delineated area, or any part thereof, is an area in need of redevelopment. Ibid.

The determination by the governing body, if supported by substantial credible evidence, and if not disapproved by the Commissioner of Community Affairs,[7] shall be binding and conclusive upon all persons affected by the determination. Ibid.; Hirth v. Hoboken, 337 N.J. Super. 149, 157 (App. Div. 2001).

Here, the record discloses that defendants properly followed all of these required statutory procedures in reaching

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[6] N.J.S.A. 40A:12A-5 was amended by L. 2003, c. 125, § 3, eff. July 9, 2003, to add subsection h, which amendment was subsequent to the redevelopment designation at issue.

[7] The provision requiring the review and approval of the Commissioner of Community Affairs was added by L. 2003, c. 125, § 4, eff. July 9, 2003.

the conclusion that plaintiffs' property met the criteria for designation as an area in need of rehabilitation pursuant to N.J.S.A. 40A:12A-5e. Accordingly, we discern no basis to invalidate that determination for failure to follow the proper statutory procedures.

We also find no merit in, or authority for, plaintiffs' contention that because their property constituted vacant land, defendants were required to meet the criteria set forth in N.J.S.A. 40A:12A-5c. Indeed, the plain language of the statute is that a redevelopment designation is appropriate where the governing body concludes, by resolution that "any" of the conditions set forth in N.J.S.A. 40A:12A-5a to -5h exist.

D. Application of Statutory Criteria.

Plaintiffs argue that the trial court erred in finding that there was substantial credible evidence to support application of the criteria set forth in N.J.S.A. 40A:12A-5e by the planning board and governing body in concluding that their property constitutes an area in need of redevelopment. Plaintiffs also assert that adoption of the redevelopment plan by Ordinance No. 0.05.03 constituted arbitrary and capricious action. We disagree.

Redevelopment designations, like all municipal actions, are vested with a presumption of validity. Levin v. Township Comm.

of Bridgewater, 57 N.J. 506, 537 (1971); Concerned Citizens, supra, 370 N.J. Super. at 452. The burden of proof is upon the objector to overcome the presumption of validity by showing that the required statutory criteria are not present and therefore the designation is not supported by substantial evidence, and constitutes arbitrary and capricious action. Ibid.

In Lyons v. City of Camden, 52 N.J. 89 (1968), the Court explained the review process as follows:

> Clearly the extent to which the various elements that informed persons say enter into the blight decision-making process are present in any particular area is largely a matter of practical judgment, common sense and sound discretion. It must be recognized that at times men of training and experience may honestly differ as to whether the elements are sufficiently present in a certain district to warrant a determination that the area is blighted. In such cases courts realize that the Legislature has conferred on the local authorities the power to make the determination. If their decision is supported by substantial evidence, the fact that the question is debatable does not justify substitution of the judicial judgment for that of the local legislators.
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> [Id. at 98.]

Thus, "judicial review of a redevelopment designation is limited solely to whether the designation is supported by substantial

credible evidence." Concerned Citizens, supra, 370 N.J. Super. at 452.

In Levin, supra, the Court entertained a challenge involving the municipal designation that certain land was "blighted" under the Blighted Area Act, N.J.S.A. 40:55-21.1 to -21.14, the predecessor statute to the LRHL. 57 N.J. at 510. The wording of the section of the Blighted Area Act at issue in Levin, N.J.S.A. 40:55-21.1(e), is identical to that contained in N.J.S.A. 40A:12A-5e. Ibid.

The Court explored the legislative origins of this subsection, as its use was relatively uncommon. Ibid. The Court noted that the legislative reasoning behind the inclusion of N.J.S.A. 40:55-21.1(e) was that blighted areas or areas in the process of becoming blighted existed in the State "by reason of inadequate planning of the area, or excessive land coverage . . . or deleterious land use . . . or the unsound subdivision plotting and street and road mapping, or obsolete layout, or a combination of these factors[.]" Id. at 511 (internal citations omitted). The Court found that through the enactment of N.J.S.A. 40:55-21.1(e), the Legislature had determined that the "redevelopment of such areas will promote the public health, safety, morals and welfare, stimulate the proper growth of urban, suburban and rural areas of the State, preserve existing

values and maintain taxable values of properties within or contiguous to such areas, and encourage the sound growth of communities." Ibid. (Emphasis in original; quoting from N.J.S.A. 40:55C-2 of the Redevelopment Agencies Law, N.J.S.A. 40:55C-1 to -39, since repealed).

Although the legislative purpose in passing these early statutes was principally to allow for slum clearance, the Court recognized that the Blighted Area Act "'goes far beyond the elimination of the perceptually offensive slums'". Id. at 514-15 (quoting Jersey City Chapter of the Prop. Owner's Protective Ass'n v. City Council of Jersey City, 55 N.J. 86, 97 (1969)). Moreover, the Court noted "that an area does not have to be a slum to make its redevelopment a public use nor is public use negated by a plan to turn a predominantly vacant, poorly developed area into a site for commercial structures." Id. at 514.

In Levin, supra, the Court established our review standard, as follows:

> Judicial review of a blight determination must be approached with an acute awareness of the salutary social and economic policy which prompted the various slum clearance and redevelopment statutes. To effectuate those policies, we are obliged to interpret the powers granted to the local planning board liberally and to accept its exercise of the powers so long as a necessarily

> indulgent judicial eye finds a reasonable basis, i.e., substantial evidence, to support the action taken. In short, while the board's discretion in administering the law is not unfettered, its vista is a broad one.
>
> [57 N.J. at 537].

Thus, the blight determination "is largely a matter of practical judgment, common sense and sound discretion." Lyons, supra, 52 N.J. at 98.

In Levin, supra, the Court rejected a determination of blight because the investigation and study conducted were based on unreliable evidence and were entirely speculative, only ten of the 122 acres were needed for the development at that point in time, other remedies were available to repair the clouds on title, the municipality had ulterior motives in seeking to obtain the property, and its actions retarded rather than stimulated the growth of private business. 57 N.J. at 559-64.

Here, however, there is substantial evidence for the determination that plaintiffs' property was an area in need of redevelopment pursuant to the criteria set forth in N.J.S.A. 40A:12A-5e. At the planning board meeting on April 7, 2003, Stevenson, a professional planner, opined that plaintiffs' property required redevelopment under N.J.S.A. 40A:12A-5e. because of its underutilization. Plaintiffs' expert planner

Paul Szymanski and owner George Gallenthin testified that the property was not in need of redevelopment and argued that it was used for the farming of Phragmites australis and as a dredging site.

However, as developed by the cross examination of Mr. Gallenthin and Szymanski, the farming activity involved a small crop that yielded little economic benefit, the property had not been used as a dredge deposit site for about forty years, there were no current permits from either the Army Corps of Engineers or the DEP for use of that site as a dredge deposit site, and there had been no other uses of the site for several years. Therefore, contrary to the assertion by plaintiffs that the designation of their property as an area in need of redevelopment was based solely on its status as "vacant" property, there was substantial credible evidence in the record from which it could have been reasonably concluded that there was a "growing lack . . . of proper utilization of" plaintiffs' property, "resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare." N.J.S.A. 40A:12A-5e.

Moreover, the investigation and report published by Remington & Vernick indicated that plaintiffs land was

unimproved and contained an underutilized rail line. That report found that development of the land could benefit the public health, safety and welfare of the community through the introduction of new business, job creation, enhanced tax base and increased use of the rail line. Due to the fact that all of the land, minus the underutilized rail line was undeveloped, the sixty-three acres constituted usable property for development purposes, unlike the circumstances in Levin, supra, 57 N.J. at 563-64. Here, the Borough's plan sought to encourage development through the creation of new industrial, commercial and retail enterprise while also providing recreation opportunity and public access to the riverfront. The URS study also supported these conclusions.

Upon adoption by the governing body of a resolution determining that an area is in need of redevelopment, the next step is the adoption of the redevelopment plan ordinance pursuant to N.J.S.A. 40A:12A-7. The redevelopment plan shall include the following:

> (1) Its relationship to definite local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements.
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> (2) Proposed land uses and building requirements in the project area.

> (3) Adequate provision for the temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market.
>
> (4) An identification of any property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan.
>
> (5) Any significant relationship of the redevelopment plan to (a) the master plans of contiguous municipalities, (b) the master plan of the county in which the municipality is located, and (c) the State Development and Redevelopment Plan[.]
>
> [N.J.S.A. 40A:12A-7a.]

In delivering his decision, Judge Stanger addressed each of these requirements and found that the redevelopment plan adopted by the Borough fully complied with N.J.S.A. 40A:12A-7a. The findings of the judge are supported by substantial credible evidence in the record. Rova Farms Resort, Inc. Investors Ins. Co., 65 N.J. 474, 484 (1974).

We conclude that there is substantial credible evidence in the record to support both the designation of plaintiffs' property as an area in need of redevelopment by application of N.J.S.A. 40A:12A-5e and the adoption of the redevelopment plan pursuant to N.J.S.A. 40A:12A-7, and we find nothing arbitrary,

capricious, nor unreasonable in the action taken by the planning board and governing body.

II.

Plaintiffs also argue that the trial court erred by excluding relevant evidence that they had proffered. We disagree.

The proffered evidence included forty-seven exhibits that had been excluded at trial. Plaintiffs attempted to move those documents into evidence as part of the record during a remand hearing that we had ordered, conducted on May 27, 2005 before Judge Stanger.

After analyzing the record, we conclude that this argument is without sufficient merit to warrant extensive discussion in a written opinion. R. 2:11-3(e)(1)(E). We find no misapplication of discretion by the trial court in excluding those documents. Plaintiffs failed to follow the proper procedural steps to make them admissible, by failing to make a motion to supplement the record, although they were given the opportunity to do so. Moreover, the documents were not submitted to the court in a timely manner. Trial briefs in the case were timely filed and a hearing on plaintiffs' complaint was scheduled for June 25, 2004, yet the exhibits in question were delivered four days prior to that scheduled hearing.

When the issue was taken up later in the proceedings, the judge stated, "I have heard nothing here today which would cause me to find that under any rule of evidence we have that [the requested supplementation to the record] would be admissible." Accordingly, the court refused to permit the additional exhibits, with the exception of Resolution No. 234.02, which was already part of the record. Plaintiffs also failed to establish any evidence of manifest injustice flowing from the failure to admit these exhibits. Therefore, we find no misapplication of discretion by the trial judge in excluding those documents.

III.

Plaintiffs also contend that the court erred by admitting the June 25, 2004 transcript as a true and correct copy. We disagree.

Plaintiffs' specific contention does not concern the transcripts as a whole, which were corrected and adjusted by Ms. Gallenthin and subsequently by Ms. Leslie Yurchuck of the Civil Case Management office, but instead concerns Judge Curio's refusal to include Judge Stanger's statement that he had not read plaintiffs' exhibits. However, Judge Stanger's failure to read these exhibits resulted in no material prejudice to plaintiffs because the transcripts were excluded on a valid procedural basis and not a substantive one.

Moreover, Judge Curio admitted the statement of Judge Stanger that "It's not part of the record. I haven't read them" as opposed to "I have not looked at or read any of plaintiffs' exhibits." We find no error in the decision of Judge Curio, set forth in the August 18, 2005 order, finding that the June 25, 2004 transcript, as submitted, was a true and correct copy.

IV.

Plaintiffs also assert that the court erred in finding that conflicts of interest among the parties did not impact the process, and erred by failing to order a plenary hearing. After analyzing the record in the light of the written and oral arguments advanced by the parties, we conclude that these contentions are without sufficient merit to warrant extensive discussion in a written opinion. R. 2:11-3(e)(1)(E).

During the June 25, 2004 hearing, the judge noted that most of plaintiffs' allegations of conflicts had "been abandoned by virtue of their not being either argued or mentioned in the briefs." On several occasions, the judge explained that plaintiffs should report to law enforcement officials any actions they believed constituted violations of the law. As Judge Stanger stated, plaintiffs' contentions of conflicts and a conspiracy to deprive them of use of their property constituted unsubstantiated and conclusory allegations.

Our review of the record demonstrates that plaintiffs failed to support their allegations of conflict or wrongdoing, or their contention that the redevelopment process had been tainted or misused. In fact, as we have concluded, the procedural requirements of the LRHL were properly followed, there was substantial credible evidence in the record before the planning board and governing body to support the finding that plaintiffs' property met the statutory criteria for designation as an area in need of redevelopment, and there is nothing in the record to support plaintiff's contention that the enactment of Ordinance No. 0.05.03 constituted arbitrary or capricious action. Actions by public officials at different levels of government, or their appointed professionals at the direction of those public officials, working in concert within the boundaries of the established statutory scheme in the LRHL to achieve what they have concluded is a legitimate public purpose, is not tantamount to a conspiracy or wrongdoing.

We are also unpersuaded by plaintiffs contention that the trial court erred in failing to conduct a plenary hearing. The issues before the Law Division were whether the procedures prescribed by the LRHL had been followed, whether there was substantial credible evidence in the record of the municipal proceedings to support the findings by the planning board and

governing body, and whether the enactment of the ordinance adopting the redevelopment plan constituted arbitrary or capricious action. Resolution of those issues did not require a plenary hearing. The record discloses that the exhibits received into evidence by the trial court and the lengthy oral and written arguments presented by the parties provided a sufficient record and basis for adjudication of those issues.

V.

To the extent we have not specifically discussed the remaining arguments advanced by plaintiffs, we conclude they are without sufficient merit to warrant discussion in this opinion. R. 2:11-3(e)(1)(E).

Affirmed.